

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRODERICK JAMES WARFIELD,

Plaintiff,

v.

MELVIN HALE,

Defendant.

No. 2:22-cv-01950-DAD-KJN

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION

(Doc. No. 3)

Plaintiff Broderick James Warfield, proceeding *pro se* and *in forma pauperis*, initiated this civil action brought pursuant to 42 U.S.C. § 1983 on October 28, 2022. (Doc. No. 1.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 7, 2022, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed, without leave to amend, because plaintiff's complaint fails to state a cognizable claim for relief. (Doc. No. 3.) The magistrate judge concluded that granting leave to amend would be futile because § 1983 claims "cannot lie against a private individual," and the sole defendant named by plaintiff "is nothing more than a private citizen." (*Id.* at 3) (citing *Franklin v. Fox*, 312 F.3d 423, 444 (9th Cir. 2002)). Those findings and recommendations were served on plaintiff and contained notice that any objections

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1 thereto were to be filed within fourteen (14) days of service. (*Id.* at 3.) No objections have been
2 filed, and the time in which to do so has now passed.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, the
4 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
5 court concludes that the findings and recommendations are supported by the record and proper
6 analysis.

7 Accordingly:

- 8 1. The findings and recommendations issued on November 7, 2022 (Doc. No. 3) are
9 adopted in full;
- 10 2. This action is dismissed due to plaintiff's failure to state a cognizable claim for
11 relief; and
- 12 3. The Clerk of the Court is directed to close this case.

13 IT IS SO ORDERED.

14 Dated: February 12, 2023

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UNITED STATES DISTRICT JUDGE